

**UNITED STATES DISTRICT COURT
DISTRICT OF THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

BALJINDER SINGH 

Case No.: 3:26-cv-388

Petitioner,

v.

ACTING FIELD OFFICE DIRECTOR of the
El Paso Field Office, U.S. Immigration and
Customs Enforcement, in his/her official capacity;
WARDEN of ERO EL Paso Camp East Montana,
in his/her official capacity;
KRISTI NOEM, Secretary, U.S. Department
of Homeland Security, in her official capacity;
TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement,
in his official capacity;
PAMELA BONDI, Attorney General of the
United States, in her official capacity;

Defendants.

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

Petitioner Baljinder Singh by counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and states as follows:

I. PRELIMINARY STATEMENT

1. This is an initial habeas petition challenging the constitutionality of Petitioner's current civil immigration detention.
2. Petitioner was released by DHS into the interior of the United States on his own recognizance in 2023, complied fully with all ICE reporting

requirements, maintained lawful employment, and has no criminal history. More than two years later, on January 13, 2026, Petitioner was re-arrested while working and placed into immigration detention without any individualized determination that detention was necessary to serve a legitimate civil purpose.

3. Petitioner does not challenge removability, the Notice to Appear, or the merits of any application for relief. He challenges only the legality of his detention.
4. Although the Fifth Circuit has recently interpreted 8 U.S.C. § 1225(b)(2)(A) to mandate detention in certain circumstances, that decision does not eliminate constitutional limits on civil detention. This petition raises a Fifth Amendment as-applied challenge to detention that is arbitrary, excessive, and unsupported by any individualized justification.

II. QUESTIONS PRESENTED

- a. Whether Petitioner's continued civil immigration detention, following release on recognizance and years of demonstrated compliance, violates the Fifth Amendment Due Process Clause as applied.
- b. Whether, even where detention is asserted under 8 U.S.C. § 1225(b)(2)(A), the Constitution requires individualized justification and limits on prolonged detention.
- c. What habeas relief is required where continued detention is unconstitutional as applied.

III. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331 because Petitioner is in federal custody and challenges the legality of that detention.
6. This Court has personal jurisdiction over Respondents because they exercise legal and physical custody over Petitioner within the Western District of Texas.
7. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this District because Petitioner is detained at El Paso Service Processing Center (EPSPC), East Montana Camp, in Texas, and Respondent Warden, his immediate custodian, is located within this District.

IV. HABEAS CORPUS LEGAL STANDARD

8. The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

V. PARTIES

9. Petitioner Baljinder Singh is a native and citizen of India who is currently detained by U.S. Immigration and Customs Enforcement (“ICE”).
10. Respondent Kristi Noem, Secretary of DHS, oversees immigration enforcement policies and is sued in her official capacity.

11. Respondent Todd Lyons, Acting Director of ICE, oversees ICE detention operations nationwide and is sued in his official capacity.
12. Respondent Acting Field Office Director of the ICE El Paso Field Office, which has administrative jurisdiction over Petitioner's detention. He / She is sued in his / her official capacity.
13. Respondent Warden of the ERO El Paso Camp East Montana. In that capacity, he / she is the immediate custodian of Petitioner. He / She is sued in his / her official capacity.

VI. FACTUAL BACKGROUND

14. Petitioner entered the United States in August 2023 without inspection ("EWI"). Ex. A, NTA.
15. After his entry, Petitioner was released from custody into the interior of the United States. Ex. B, Form I-286, Notice of Custody Determination.
16. The Department of Homeland Security initiated removal proceedings against Petitioner under INA § 240, and Petitioner was placed in those proceedings. Ex. A.
17. Petitioner applied for asylum and related relief and has remained physically present in the United States while those proceedings are pending. Ex. C, I-589 receipt dated 07/03/2024.
18. Department of Homeland Security ("DHS") subsequently issued Petitioner an Employment Authorization Document ("EAD") valid through 02/02/2030. Ex. D, EAD.
19. Petitioner's removal proceedings are currently still pending before the Executive Office for Immigration Review ("EOIR") in El Paso, Texas. Ex. E, EOIR, Hearing notice.

20. On January 13, 2026, Petitioner was arrested by ICE while at work in a restaurant. ICE took Petitioner into custody and placed him in immigration detention.
21. ICE is currently detaining Petitioner at the ERO EL Paso Camp, East Montana, El Paso, Texas. Ex. F, DHS Detainee Locator.
22. DHS has detained Petitioner without providing any individualized determination that detention is necessary to prevent flight or protect the community.
23. DHS asserts that Petitioner is subject to mandatory detention and ineligible for bond.
24. Petitioner has no criminal background, appeared to all his immigration proceedings and ICE check-ins, and has no prior orders of removal.

VII. EXHAUSTION OF REMEDIES

25. No statutory exhaustion requirement applies to petitions for habeas corpus under 28 U.S.C. § 2241. See *Zadvydas*, 533 U.S. at 688.
26. Prudential exhaustion is likewise inapplicable here because Petitioner has no available administrative remedy through which he could obtain the relief he seeks. Immigration Judges and the Board of Immigration Appeals lack authority to adjudicate constitutional challenges to detention statutes or to order release where DHS asserts mandatory detention authority. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020); *Matter of C--*, 20 I. & N. Dec. 529, 532 (BIA 1992); *Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004).
27. Where no administrative mechanism exists to provide the relief requested, exhaustion is not required. *McCarthy v. Madigan*, 503 U.S. 140, 144–45

(1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

28. On February 6, 2026, the Fifth Circuit held that certain noncitizens deemed “applicants for admission” may be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and are not statutorily entitled to bond hearings. *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026).

VIII. GOVERNING LAW AND POSTURE AFTER THE FIFTH CIRCUIT DECISION

29. On February 6, 2026, the Fifth Circuit held that certain noncitizens deemed “applicants for admission” may be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and are not statutorily entitled to bond hearings. *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026).

30. That decision addressed statutory bond eligibility. It did not hold that mandatory detention is immune from constitutional challenge, nor did it eliminate habeas jurisdiction to remedy unconstitutional detention.

IX. PRESERVATION OF ISSUES FOR FURTHER REVIEW

31. Petitioner recognizes that this Court is bound by Fifth Circuit precedent. Petitioner nevertheless expressly preserves for en banc rehearing and certiorari:

- The argument that § 1225(b)(2)(A) does not properly apply to noncitizens apprehended in the interior after release and extended compliance; and

- The argument that detention under § 1225(b)(2)(A) violates the Fifth Amendment, facially and as applied.

X. LEGAL FRAMEWORK GOVERNING LAWFUL IMMIGRATION DETENTION

A. Immigration Detention Is Civil and Constitutionally Limited

32. The writ of habeas corpus is available to all persons detained within the United States, including noncitizens in immigration custody. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
33. Section 2241 authorizes federal courts to grant relief where a person is “in custody in violation of the Constitution.” 28 U.S.C. § 2241(c)(3). Habeas relief remains available for as-applied constitutional challenges to immigration detention, even where statutory detention provisions exist. *Jennings v. Rodriguez*, 583 U.S. 281, 302–03 (2018).
34. Although Congress has broad authority over immigration, immigration detention remains civil detention, not criminal punishment. As such, it is subject to constitutional limits.
35. The Supreme Court has repeatedly emphasized that civil detention is justified only insofar as it is reasonably related to its regulatory purposes and may not be imposed arbitrarily. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). Where detention ceases to serve those purposes, it exceeds the government’s authority.
36. Freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause, and detention without a justification tied to a legitimate regulatory purpose constitutes arbitrary government action.

Foucha v. Louisiana, 504 U.S. 71, 80 (1992). Government action that withdraws liberty without reasoned justification violates fundamental principles of due process. *Id.*

37. Accordingly, even where Congress has authorized immigration detention, the government must be able to articulate a lawful basis for detaining a particular individual, such as ensuring appearance at proceedings or protecting the community, and detention imposed as a matter of default or administrative convenience is unlawful.

B. Lawful Immigration Detention Requires a Statutory Trigger and an Individualized Basis

38. The Supreme Court has upheld certain forms of immigration detention where Congress relied on concrete concerns such as flight risk or danger to the community and where detention was understood to be temporary and closely tied to the removal process. *Demore v. Kim*, 538 U.S. 510, 528–30 (2003).

39. Conversely, where is imposed without any individualized justification, it becomes arbitrary as applied and exceeds the government’s civil detention authority. *Zadvydas*, 533 U.S. at 690–91. The availability of habeas relief in such circumstances remains intact. *Jennings v. Rodriguez*, 583 U.S. 131, 152–53 (2018).

C. Application to Petitioner

40. Petitioner was arrested from the interior of the United States while in removal proceedings, with a pending asylum application, no criminal history, no failure to appear, and full compliance with ICE reporting

requirements. Respondents made no individualized determination that Petitioner posed a flight risk or danger to the community.

41. Under these circumstances, detention was not authorized in the first instance.

XI. ARGUMENT

COUNT I – Violation of the Fifth Amendment Due Process Clause as Applied *(Petitioner’s Detention Is Arbitrary and Unlawful as Applied)*

42. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.

43. The Due Process Clause protects all persons within the United States, regardless of status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It forbids detention that is arbitrary, purposeless, or devoid of procedure.

44. Petitioner has a fundamental interest in liberty and being free from official restraint. Government decisions that are arbitrary are not compatible with due process. See *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1988).

45. Even where Congress has authorized civil immigration detention, that authority is constitutionally limited. Immigration detention is civil, not punitive, and is justified only to the extent it is reasonably related to its permissible purposes, principally, ensuring appearance at proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690–91.

46. Here, Petitioner’s detention is arbitrary as applied. Respondents reversed Petitioner’s custodial status without any change in facts, conduct, or circumstances. When DHS released Petitioner in 2024, it necessarily determined that he did not pose a danger to the community and was not a

flight risk. One year later, DHS re-detained Petitioner without any individualized reassessment and without identifying any new evidence to justify a different conclusion.

47. Courts have long recognized that unexplained agency reversals and decisions that ignore prior factual determinations and reliance interests are the hallmark of arbitrary government action. See *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 42 (1983). Respondents' conduct here reflects precisely that defect.

48. Petitioner did exactly what the government required of him. He reported as directed. He appeared when summoned. He filed his asylum application promptly. He accepted employment authorization and structured his life around DHS's express permissions. Having demanded compliance and rewarded it with release and lawful work authorization, the government now treats that same compliance as irrelevant. Such a bait-and-switch deprivation of liberty is arbitrary as applied and violates due process.

49. The Supreme Court has upheld certain forms of mandatory immigration detention only where detention was justified by concrete concerns regarding flight risk or public safety and where detention was understood to be temporary and closely tied to the removal process. *Demore v. Kim*, 538 U.S. 510, 528–30 (2003). Those justifications are absent here.

50. Where detention lacks an individualized, purpose-based justification, it exceeds the government's civil detention authority and violates due process as applied. *Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 583 U.S. 131, 152–53 (2018) (leaving open as-applied constitutional challenges to immigration detention).

51. Moreover, detaining Petitioner at the very moment he complied with ICE's reporting requirements effectively punishes him for his compliance,

undermining the purpose of supervision and offending basic principles of fairness.

52. Petitioner was arrested and detained without a warrant, without probable cause findings, and without any individualized custody determination. Therefore, his continued confinement is arbitrary and unlawful.

53. Accordingly, Petitioner's continued detention must cease.

XII. HABEAS RELIEF

54. Because Petitioner's detention is arbitrary and unconstitutional as applied, the appropriate remedy is immediate release. *Zadvydas*, 533 U.S. at 699 (where detention is not authorized, release is required).

55. Where detention itself is unlawful, a bond hearing is an insufficient remedy. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (writ must be effective; remedy must end unlawful detention). Bond hearings are remedies under § 1226. They are not cures for unlawful detention.

56. Release from custody would not interfere with the government's authority to pursue removal proceedings. As the Supreme Court has repeatedly recognized, release from detention does not terminate or invalidate removal proceedings, which proceed independently before the Immigration Court. *Zadvydas*, 533 U.S. at 688; *Demore v. Kim*, 538 U.S. 510, 523 (2003). Release would simply restore Petitioner to the same non-detained posture under which he previously complied with all reporting requirements and appeared as directed.

57. Indeed, ordering release here would return the parties to the status quo ante that existed for years—during which Petitioner appeared, reported, worked lawfully, and posed no danger—while removal proceedings continue to their conclusion. Continued detention is not necessary to

preserve the government's interests and instead inflicts ongoing, irreparable constitutional harm.

58. Because Petitioner's continued detention violates the Fifth Amendment as applied, the only remedy consistent with the Constitution and the historic function of the writ is immediate release. A bond hearing would not cure the constitutional violation and would improperly sanction ongoing unlawful restraint.

59. Continued detention inflicts irreparable harm and rewards the Government. The writ exists to remedy unlawful physical restraint. Once the asserted statutory basis fails, continued detention lacks legal authorization, and release, not a prospective hearing, is the appropriate remedy.

XIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

60. Assume jurisdiction over this action and issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

61. Declare that Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2) is unlawful.

62. Order Respondents to immediately release Petitioner from custody.

63. Enjoin Respondents from transferring Petitioner outside this District without prior approval of this Court;

64. Grant such other and further relief as the Court deems just and proper.

XIV. VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Dated: February 9, 2026,

Respectfully submitted,

/s/Gracilene Brooks

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TABLE OF EXHIBITS

EXHIBIT A – Notice to Appear (NTA), charging Petitioner under INA § 240 and reflecting entry without inspection in August 2023.

EXHIBIT B – Form I-286, Notice of Custody Determination, reflecting Petitioner's release from custody into the interior of the United States

EXHIBIT C – Form I-589, Application for Asylum and for Withholding of Removal, filed July 3rd 2023.

EXHIBIT D – Employment Authorization Document (EAD), issued by DHS and valid through July 30, 2030

EXHIBIT E – EOIR Hearing notice.

EXHIBIT F – DHS Detainee Locator printout, reflecting Petitioner's current detention at ERO EL Paso Camp East Montana, in El Paso, TX.

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February 2026, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Respectfully submitted,

/s/Gracilene Brooks

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